

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of

Redevelopment of Spectrum to
Encourage Innovation in the Use of
New Telecommunications Technologies

)
)
) ET Docket No. 92-9
)

To: The Commission

MOTION FOR EXTENSION OF TIME

The American Petroleum Institute (API), pursuant to Section 1.46 of the Rules and Regulations of the Federal Communications Commission (Commission), by its attorneys, and on behalf of the Utilities Telecommunications Council (UTC), the Association of American Railroads (AAR), and the Large Public Power Council (LPPC), hereby respectfully submits this Motion for Extension of Time to file Comments and Reply Comments in the above-referenced matter.^{1/} The Commission is requested to extend the date for filing Comments and Reply Comments in this proceeding to June 22, 1992, and July 21, 1992, respectively.

I. PRELIMINARY STATEMENT

1. The American Petroleum Institute is a national trade association representing approximately 200 companies. API's membership is representative of all sectors of the petroleum industry which are

^{1/} Notice of Proposed Rule Making ("Notice"), FCC 92-20, ET Docket No. 92-9, 57 Fed. Reg. 5993 (February 19, 1992). The comment and reply comment dates for responding to this Notice are now April 21, and May 21, 1992, respectively.

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engaged in the exploration, production, refining, marketing, and pipeline transportation of petroleum, petroleum products and natural gas. API acts on behalf of its members as a spokesperson before federal and state regulatory agencies and legislative bodies.

2. UTC is the national representative on communications matters for the nation's electric, gas, water and steam utilities ("utilities"). Approximately 2,000 utilities are members of UTC, ranging in size from large combination electric-gas-water utilities serving millions of customers, to small rural electric cooperatives and water districts serving only a few thousand customers.

3. The Association of American Railroads is a voluntary, non-profit organization composed of member railroad companies operating in the United States, Canada and Mexico. The AAR is the joint representative and agent of these railroads in connection with federal regulatory matters of common concern to the railroad transportation industry.

4. The Large Public Power Council ("LPPC") is an independent association representing most of the largest public power systems in the United States. Its 18 current members own and operate a substantial portion of the country's electric generation and transmission facilities and serve millions of customers in cities, suburbs and rural areas in New York, California, Texas, Florida,

Georgia, Washington, South Carolina, Arizona, Tennessee, Nebraska and Puerto Rico.

5. These three organizations represent many Private Operational-Fixed Microwave Service ("OFS") licensees that operate systems in the band 1.85 to 2.20 GHz. API, UTC, AAR and LPPC participate in all major Commission proceedings which affect the use of the OFS frequency bands and, in particular, have filed Comments and Reply Comments in the Commission's recent proceeding established to explore use of the 1-3 GHz microwave band for personal communication services ("PCS").^{2/} Throughout the PCS proceeding, these parties provided the Commission with alternatives that would avoid disruption of the critical public safety and public service-type operations conducted in the Private Operational-Fixed Radio Service. These organizations will also participate actively in the instant proceeding, but submit that the Commission's current respective Comment and Reply Comment due dates of April 21 and May 21, 1992, do not provide sufficient time to carefully evaluate the issues raised in the Docket No. 92-9 Notice and to prepare comments which will thoroughly address the complex issues presented by the Commission.

^{2/} FCC Gen. Docket 90-314, RM-7175 and RM-7140.

II. MOTION FOR EXTENSION

6. The rules proposed by the Notice were apparently designed in significant part on the basis of conclusions drawn in a year-long spectrum study performed by the Commission's Office of Engineering and Technology.^{3/} While this study was simultaneously released with the Notice, it is a lengthy and highly complex technical document. Among other things, the study contains information pertaining to nationwide analyses of spectrum availability in several frequency bands which the study claims will accommodate the needs of most incumbent 1.85-2.20 GHz licensees, should displacement of these users occur as a result of this proceeding. The study was based on analysis of technical operational information, as well as site visits and interviews with licensees, consultants, equipment manufacturers and vendors, and industry representatives. Access to transcripts of these interviews will be necessary in order that Commenters may fully respond to the conclusions based on the survey discussions and/or interviews. A thorough technical evaluation of the study simply cannot be performed in the amount of time available to prepare Comments, and API, UTC, AAR and LPPC assert that a meaningful technical analysis of this study must be a part of the record before any rational decision may be made in the instant proceeding.

^{3/} "Creating New Technology Bands for Emerging Telecommunications Technology," FCC/OET TS 91-1 (January 1992).

7. An important issue which must be analyzed is the efficacy of the Commission's proposal to allow displaced OFS licensees to use spectrum now allocated to common carriers as a replacement for channels which may be lost as a result of decisions made in this proceeding. Resolution of this issue will require significant time and sophisticated analyses, since the operational bandwidth requirements and frequency coordination procedures for spectrum allocated to common carrier operations differ markedly from those applicable to spectrum allocated to private operational-fixed use. Technical analysis, and a review of this proceeding's potential impact upon users, as well as final work on Comments, is scheduled for extensive discussion at the spring meeting of API on May 21-23 and a meeting of the AAR Communication and Signal Committee of Directors on May 21, 1992. Since these dates fall well after the present deadline for Comment filing, it will be impossible for the analyses and impact study reviews to be completed and the conclusions reached by API and AAR members to be effectively integrated into their Comments within the current filing schedule. Accordingly, these organizations submit that it is impossible to adequately respond to the engineering study and subsequent proposed rule changes within the Commission's current comment submission deadline, and respectfully urge the Commission to allow ample time for interested parties to complete technical analyses and impact studies, and to complete comments which will adequately respond to the Commission's proposals.

8. In relation to the technical review discussed above, AAR's counsel has requested that the OET staff provide access to the data and computer programs used to perform the spectrum study. The staff refused the request on March 4, 1992, and suggested that such information could be obtained from the National Technical Information Service (NTIS). Accordingly, AAR immediately requested the data and programming from NTIS, but to date has received no reply. The obstacles and delays presented in obtaining the information necessary to proceed with technical analysis of the Commission's spectrum study further support grant of this Motion for Extension of Time.

9. The Commission seeks comment on how international spectrum allocations agreed upon at WARC-92 affect domestic allocation of the 2 GHz band for new technologies.^{4/} The month-long WARC, which considered numerous allocation proposals affecting new technology services, adjourned on March 3, 1992. The details of the allocation agreements reached are just becoming available, and it is unclear when the full text of the Final Acts will be released. Given that the Commission's proposal to locate PCS on the 2 GHz band is based in significant part on compatibility with international allocations for PCS, interested parties must have adequate time to analyze the Final Acts before submitting comments on this proceeding.

^{4/} Notice at para. 10, 13.

10. The Commission also specifically seeks comment on the feasibility of making a portion of the 1.71-1.85 GHz government band available for emerging technologies.^{5/} Current 2 GHz occupants have a great interest in commenting on this issue, given that such an alternative location for emerging technologies could prevent their displacement from present channel assignments. Efforts to determine the availability of government spectrum have been initiated but the lengthy process of gaining access to government spectrum data, which is controlled by NTIA, and then fully analyzing it, requires more time than that granted in the existing comment period.

11. Furthermore, throughout the course of the recent proceedings concerning spectrum allocation in the 1-3 GHz range, participation has been extensive, with voluminous comments being filed.^{6/} Several of the issues which must be resolved prior to a final Commission decision in Docket No. 92-9 were also raised in the previous proceedings. Certainly, the sweeping scope of the instant proposal ensures that an even greater volume of commentary and public participation may be expected in this matter. The task of review and analysis of the volume of available data relevant to the instant proceeding is formidable, and it is submitted that more time is needed to complete review and analysis of all pertinent information before

^{5/} Notice at para. 21, 27.

^{6/} More than 350 Comments and 100 Reply Comments have been received by the Commission to date in Docket No. 90-314.

adequate commentary can be prepared to address the issues raised in Docket No. 92-9. Accordingly, API, UTC, AAR and LPPC respectfully submit that an extension of the time for filing Comments and Reply Comments in Docket No. 92-9 is necessary, warranted, and in the public interest.

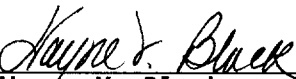
12. To accommodate the interests of all parties concerned and to promote full and fair participation in this important proceeding, API, UTC, AAR and LPPC recommend an extension of 60 days in both the Comment and Reply Comment dates. An extension of 60 days will not significantly impede the Commission in meeting its regulatory obligations nor will the postponement adversely affect the public interest. Rather, a grant of the requested extension will benefit the public by providing additional time to ensure that the Commission's proposals are carefully considered and analyzed so that Comments may be prepared in a thorough manner and provide the Commission with a full and complete record for consideration in this most important proceeding.

WHEREFORE, THE PREMISES CONSIDERED, the American Petroleum Institute, the Utilities Telecommunications Council, the Association of American Railroads and the Large Public Power Council respectfully move


the Federal Communication Commission to extend the dates for the filing of commentary in this proceeding.

Respectfully submitted,

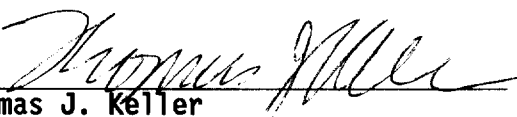
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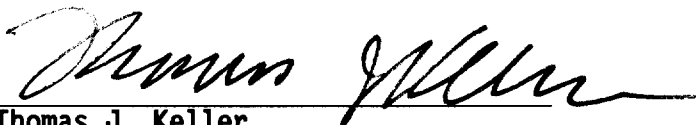
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Dated: March 16, 1992

CERTIFICATE OF SERVICE

I, Terri Clegg, a secretary in the law firm of Keller and Heckman, do hereby certify that a copy of the foregoing "Motion for Extension of Time" has been hand-delivered to the following on this 16th day of March, 1992.

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